

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Thomas Henry on October 12, 2009.

On line 1-2 of claim 27, the phrase "said special property" was changed to --said special optical property--.

On line 3 of claim 32, the phrase "indicative or" was changed to --indicative of--.

On line 8 of claim 48, the phrase "the measurement signal" was changed to --a measurement signal--.

Withdrawn claims 28-31 and 34-39 were canceled.

After line 7 on page 5 of the specification, the following was inserted so as to provide a brief description of Figure 1:

--Brief Description of the Drawing: Figure 1 is a plot of relative remission versus time for blood samples and control liquids.--

2. The following is an examiner's statement of reasons for allowance: Application serial no. 10/518,968 is being allowed since none of the prior art of record teaches or fairly suggests a method for determining whether a sample liquid is a test sample or a control sample comprising the steps of providing an optical photometer device for measuring analytes of interest in sample

liquids, wherein the sample liquids are either test samples or control samples, providing one or more control samples containing a known concentration of an analyte of interest and an IR dye therein, wherein the IR dye does not have a substantial absorption in the wavelength range in which a measurement signal for the analyte of interest is detected, using the photometer to measure absorption or remission in the IR range for one of the sample liquids in order to detect the analyte of interest, and automatically determining whether the measured sample liquid is a control sample or a test sample by identifying the results of the IR absorption or remission measurement as being consistent with either a control sample containing the IR dye or a test sample not containing the IR dye. In particular, none of the prior art of record teaches or fairly suggests differentiating between a control sample and a test sample by adding an IR dye to the control sample and measuring the IR absorption or remission of the sample liquid.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maureen M. Wallenhorst whose telephone number is 571-272-1266. The examiner can normally be reached on Monday-Thursday from 6:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim, can be reached on 571-272-0579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Maureen M. Wallenhorst  
Primary Examiner  
Art Unit 1797

mmw

October 12, 2009

/Maureen M. Wallenhorst/

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